MONTANA LEGISLATIVE HISTORY

Chapter 534 19 85

Bill H _____ S 113 Original bill & history ✓ C

H. Committee on Judiciary			S. Committee on Judiciary		
Hearing Date(s)	Mar 01	✓ C	Hearing Date(s)	Jan 18	✓ C
	Mar 15	✓ C		Jan 19	✓ C
		C			C
		C			C
Date Out	Mar 15	✓ C		Jan 19	✓ C

Did this bill originate in an interim committee? ____Yes ____No

Committee _____ Report _____

Conference Committee

Apr 11

3/30	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 298		
	EFFECTIVE DATE: 07/01/95—SECTIONS 1-4, 6-11 & 13		
	EFFECTIVE DATE: 03/30/95—SECTIONS 5 & 12		

SB 113 INTRODUCED BY BROOKE, ET AL.

INCREASE FROM 10 DAYS TO 6 MONTHS THE MAXIMUM JAIL SENTENCE THAT MAY BE IMPOSED UPON THIRD OR SUBSEQUENT CONVICTION OF DRIVING WITHOUT LIABILITY INSURANCE

1/12	INTRODUCED		
1/12	FIRST READING		
1/12	REFERRED TO JUDICIARY		
1/13	FISCAL NOTE REQUESTED		
1/17	FISCAL NOTE RECEIVED		
1/17	FISCAL NOTE PRINTED		
1/18	REVISED FISCAL NOTE PRINTED		
1/18	HEARING		
1/19	COMMITTEE REPORT—BILL PASSED		
1/20	2ND READING PASSED	40	10
1/21	3RD READING PASSED	41	7
	TRANSMITTED TO HOUSE		
1/23	FIRST READING		
1/23	REFERRED TO JUDICIARY		
3/01	HEARING		
3/16	COMMITTEE REPORT—BILL CONCURRED AS AMENDED		
3/21	REVISED FISCAL NOTE PRINTED		
3/25	2ND READING CONCURRED	76	19
3/27	3RD READING CONCURRED	68	30
	RETURNED TO SENATE WITH AMENDMENTS		
3/30	2ND READING AMENDMENTS NOT CONCURRED	38	11
4/03	CONFERENCE COMMITTEE APPOINTED		
4/11	HEARING		
4/12	CONFERENCE COMMITTEE REPORT NO. 1		
4/12	2ND READING CONFERENCE COMMITTEE REPORT NO. 1 ADOPTED	49	0
4/13	3RD READING CONFERENCE COMMITTEE REPORT NO. 1 ADOPTED	48	2
	HOUSE		
4/05	CONFERENCE COMMITTEE APPOINTED		
4/12	CONFERENCE COMMITTEE REPORT NO. 1		
4/12	2ND READING CONFERENCE COMMITTEE REPORT NO. 1 ADOPTED	91	8
4/13	3RD READING CONFERENCE COMMITTEE REPORT NO. 1 ADOPTED	79	19
4/18	SIGNED BY PRESIDENT		
4/18	SIGNED BY SPEAKER		
4/18	TRANSMITTED TO GOVERNOR		
4/21	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 534		
	EFFECTIVE DATE: 10/01/95		

SB 114 INTRODUCED BY MOHL

REVISE VALUE THRESHOLD AT WHICH DEPARTMENT OF TRANSPORTATION SHALL OFFER REAL PROPERTY AT PUBLIC AUCTION

BY REQUEST OF THE DEPARTMENT OF TRANSPORTATION

1/12	INTRODUCED		
1/12	FIRST READING		

SENATE BILL NO. 113

INTRODUCED BY Bradley Benedict Hollyn Shea Cook

A BILL FOR AN ACT ENTITLED: "AN ACT INCREASING FROM 10 DAYS TO 6 MONTHS THE MAXIMUM JAIL SENTENCE THAT MAY BE IMPOSED UPON THE THIRD OR SUBSEQUENT CONVICTION OF DRIVING WITHOUT LIABILITY INSURANCE; AND AMENDING SECTION 61-6-304, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 61-6-304, MCA, is amended to read:

"**61-6-304. Penalties.** (1) It is unlawful for any person to operate a motor vehicle upon ways of this state open to the public without a valid policy of liability insurance in effect in an amount not less than that provided in 61-6-301 or unless the person has been issued a certificate of self-insurance, pursuant to 61-6-143, or has previously posted an indemnity bond with the department, as provided by 61-6-301, or is operating a vehicle exempt under 61-6-303.

(2) Conviction of a first offense under 61-6-301 through 61-6-304 is punishable by a fine of not less than $250 or more than $500 or by imprisonment in the county jail for not more than 10 days, or both. A second conviction is punishable by a fine of $350 or by imprisonment in the county jail for not more than 10 days, or both. A third or subsequent conviction is punishable by a fine of $500 or by imprisonment in the county jail for not more than ~~10 days~~ 6 months, or both.

(3) Upon a second or subsequent conviction, the sentencing court shall order the surrender of the vehicle registration receipt and license plates for the vehicle operated at the time of the offense if that vehicle was operated by the registered owner or a member of the registered owner's immediate family or by a person whose operation of that vehicle was authorized by the registered owner. The court shall send the receipt and plates, along with a copy of the complaint and dispositional order, to the department, which shall immediately suspend the receipt and plates for a period of 90 days from the date of a second conviction or 180 days from the date of a third or subsequent conviction. The receipt and plates may not be reinstated until the expiration of that period, but if the vehicle is transferred to a new owner, the new owner is entitled to register the vehicle.

(4) The court may suspend a required fine only upon a determination that the offender is or will

be unable to pay the fine.

(5) A court may not defer imposition of penalties provided by this section."

-END-

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for SB0113, as introduced

DESCRIPTION OF PROPOSED LEGISLATION:
Act increasing from 10 days to 6 months the maximum jail sentence that may be imposed for the third or subsequent conviction of driving without liability insurance.

ASSUMPTIONS:
1. In FY94, 2,003 convictions were made for driving without liability insurance.
2. Assume the same amount will be made in FY96 and FY97.
3. Assume that 10% are 3rd or subsequent convictions, and that the Montana Highway Patrol was responsible for 50% of the arrests (10% x 2,003 x 50% = 100).
4. The bill will be effective October 1, 1995.
5. Assume that 25% of the 3rd or subsequent convictions receive an average of 3 months in jail (25% x 100 = 25/yr). Estimate that 2,250 prisoner days are incurred in a year (25 x 90 days = 2,250).
6. Average daily rate charged a Highway Patrol prisoner in a county detention center is $34.

FISCAL IMPACT:

Expenditures:

	FY96 Difference	FY97 Difference
Department of Justice:		
Highway Patrol Div.:		
Operating costs	57,300	76,500
Funding:		
Highway SSR (02)	57,300	76,500

IMPACT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:
County detention centers will see increased prisoner days, but the fiscal impact will not be as great as the state because of fixed or sunk costs.

Dave Lewis 1-17-95

DAVE LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

Vivian Brooke

VIVIAN BROOKE, PRIMARY SPONSOR DATE

Fiscal Note for SB0113, as introduced

SB 113

STATE OF MONTANA - FISCAL NOTE

Revised Fiscal Note for SB0113, as introduced

DESCRIPTION OF PROPOSED LEGISLATION:
An Act increasing from 10 days to 6 months the maximum jail sentence that may be imposed upon the third or subsequent conviction of driving without liability insurance.

ASSUMPTIONS:
1. In FY94, 1,450 convictions were made for 2nd and 3rd offense of driving without liability insurance. Assume that 40%, or 580 of the total represents 3rd offenses.
2. Assume that the Montana Highway Patrol was responsible for 50% of the arrests (50% x 580 = 290).
3. The bill will be effective October 1, 1995, allowing 9 months activity in FY96.
4. Assume that 10% of the 3rd or subsequent convictions receive the maximum 6 month term in jail (10% x 290 = 29/yr). Estimate that 4,900 prisoner days are incurred in a year (29 x 170 days = 4,900).
5. Average daily rate charged a Highway Patrol prisoner in a county detention center is $34.

FISCAL IMPACT:

Expenditures:

	FY96 Difference	FY97 Difference
Department of Justice:		
Highway Patrol Div.:		
Operating costs	125,000	166,600
Funding:		
Highway SSR (02)	125,000	166,600

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:
County detention centers will see increased prisoner days, but the fiscal impact will not be as great as the state because of fixed or sunk costs.

Dave Lewis 1-18-95
DAVE LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

Vivian Brooke 1/18/95
VIVIAN BROOKE, PRIMARY SPONSOR DATE

Revised Fiscal Note for SB0113, as introduced

Rev. SB 113-#2

STATE OF MONTANA - FISCAL NOTE

Revised Fiscal Note for SB0113, 3rd reading, as amended

DESCRIPTION OF PROPOSED LEGISLATION:

An act increasing from 10 days to 6 months the maximum jail sentence that may be imposed upon the third or subsequent conviction of driving without liability insurance, and increasing the fines.

ASSUMPTIONS:

1. There are three offenses related to driving without liability insurance, any one of which can lead to a conviction: no liability insurance, failure to carry proof of liability insurance, and failure to exhibit proof on demand.
2. In FY92, there were about 9,300 first offense convictions related to driving without liability insurance. It is estimated that, on average, there will be 10,000 first offense convictions each year. It is assumed generally that 100% of the first offense convictions are fined the minimum $250 under present law. This bill sets the fine at a flat $500 and is estimated to increase state revenues by $1.25 million per year ($250 x 10,000 x 50% = $1,250,000) and increase county revenues by $1.25 million.
3. It is estimated that there are about 2,000 convictions each year for 2nd and 3rd or subsequent offenses related to driving without liability insurance. It is assumed that 60%, or 1,200, are for 2nd offenses and 40%, or 800, are for 3rd or subsequent offenses.
4. It is assumed generally that 100% of the second offense convictions are fined the $350 under present law rather than imprisoned and/or fined. This bill sets the fine at $750 and is estimated to increase state revenues by $240,000 per year ($400 x 1,200 x 50% = $240,000) and increase county revenues by $240,000.
5. It is assumed that 95%, or 760, of the estimated 800 annual convictions for 3rd or subsequent offense will be subject to the fine and a suspended sentence. This bill raises the fine from $500 to $1,000 and is estimated to increase state revenues by $190,000 each year (760 x $500 x 50% = $190,000) and increase county revenues by $190,000 each year.
6. It is assumed that the Montana Highway Patrol is responsible for 50% of the arrests for 3rd and subsequent offenses that lead to convictions.
7. It is assumed that 5% of the 3rd or subsequent offense convictions will receive the maximum six-month term in jail. It is estimated that 3,400 additional highway patrol prisoner days will be incurred in a year (5% x 800 convictions x 50% x (180-10 days) = 3,400).
8. The average daily rate charged by counties for a highway patrol prisoner in a county detention center is $34. The estimated cost to the highway patrol division for the additional prisoner days is $86,700 in FY96 and $115,600 in FY97 (3,400 X $34 = $115,600).
9. The bill will be effective October 1, 1995, allowing nine months of fiscal impact in FY96.

(continued)

Dave Lewis 3-21-95

DAVE LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

VIVIAN BROOKE, PRIMARY SPONSOR DATE

Revised Fiscal Note for SB0113, 3rd reading, as amended

SB 113-#3

FISCAL IMPACT:

Expenditures:

	FY96 Difference	FY97 Difference
Department of Justice:		
Highway Patrol Division:		
Operating expenses	86,700	115,600
Funding:		
Highways special revenue (02)	86,700	115,600
Revenues:		
General Fund (01)	564,700	753,000
Traffic education account (02)	213,400	284,600
Crime victims compensation (02)	200,300	267,100
Highways special revenue (02)	148,200	197,600
Other special revenue (02)	133,400	177,700
Total	1,260,000	1,680,000
County revenue	1,260,000	1,680,000

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:
County detention centers will experience increased costs due to increased prisoner days, but the fiscal impact will not be as great as that to the state because of fixed or sunk costs. County general fund revenues are estimated to increase by approximately $1.26 million in FY96 and $1.68 million in FY97 and subsequent years.

hands vote with six members voting aye and five members voting no.

Motion: **SENATOR GROSFIELD MOVED THAT SB 81 DO PASS AS AMENDED.**

Vote: The **MOTION FAILED** on a roll call vote with five members voting aye and six members voting no.

Motion: **SENATOR GROSFIELD MOVED TO TABLE SB 81.**

Vote: The vote **CARRIED UNANIMOUSLY** by oral vote.

HEARING ON SB 113

Opening Statement by Sponsor:

SENATOR VIVIAN BROOKE, Senate District 33, Missoula, sponsored SB 113, which increased from ten days to six months the maximum jail sentence that may be imposed upon the third or subsequent conviction of driving without liability insurance. The bill would increase the options of the judge in these cases, she said. **SENATOR BROOKE** offered written testimony for the bill from **Vicky Frazier, Deputy County Attorney, Lewis and Clark County, Montana. (EXHIBIT 3).** The Senator said that this "get tough on crime" bill would cost some money. She apologized that the fiscal note was not ready, and listed the figures by the Highway Patrol estimated at $57,300 for FY 1996 and $76,500 for FY 1997. Assumptions made by the Office of the Budget and Program Planning were different than those made by the Highway Patrol Department.

Proponents' Testimony:

Jeff Sherlock, District Judge, Helena, and representing the Montana District Judges, spoke in support of the bill.

Dean Roberts, Administrator, Motor Vehicle Division of the Department of Justice for the State of Montana, said they had no problem with increasing the third offense penalty. He said they had seen a decrease of people with their licenses suspended, so they thought a tougher third offense rule was proper.

Craig Reap, Colonel, Montana State Highway Patrol, spoke in favor of the bill. His one concern was the increase the prisoner board cost in excess of 300,000 per year approximately.

Opponents' Testimony:

None.

Questions From Committee Members and Responses:

SENATOR BARTLETT asked **Col. Reap** about the increased board costs and if the Highway Patrol would be liable for these costs. She asked for a review of the process.

Col. Reap said that when they make an arrest, they are responsible for costs to maintain that prisoner in the county detention facility until the case is adjudicated and sentenced.

SENATOR BARTLETT further asked him if a person was sentenced to three or six months, would the Highway Patrol be responsible.

Col. Reap answered in the affirmative.

SENATOR BARTLETT asked him if he would be interested in submitting information to the committee to reflect his financial assumptions so they might compare it to the fiscal note, and he agreed.

Closing by Sponsor:

SENATOR BROOKE reiterated that the bill would provide the judges with more options as they see fit. She urged a favorable consideration of the bill but only after a careful examination of the fiscal note.

HEARING ON SB 123

Opening Statement by Sponsor:

SENATOR DARYL TOEWS, Senate District 48, Lustre, said that the reasons prohibiting new business from locating in our state prompted this action. Workers' Compensation was a suggested deterrent, he said, as well as personal property taxes, liability insurance and tort reform. This bill dealt with the two basic questions he listed: 1) what would happen if the incentive was taken from punitive damage suits, and 2) if punitive damages are defined as punishment or exemplary damages, then is it the duty of one individual to punish another or is it the duty of the state? The first question would be hard to prove, he said, but he thought it would be a deterrent if the incentive was taken away. He said he thought that damage suits should be based more on conviction than dollar amounts received. Punitive damage awards would be made payable to the state treasurer according to language on page 2. Items on page 3 would allow for the division and distribution of the punitive damages, 10 per cent to the plaintiff; 15 per cent to the plaintiff's attorney; the remainder to the state General Fund. Also, it stated that the state can't engage in fund-raising through this bill. Section (e) dealt with the payment to the state treasurer in the event of a settlement agreement. Section (f) allowed for the court costs and compensatory damages to be paid before the state could collect punitive damages, he said. The Senator passed out a study of state punitive damage-sharing laws. **(EXHIBIT 4).** He also gave the committee a paper concerning the constitutionality of the proposed damage-sharing laws, **(EXHIBIT 5)** which he said is probably affirmative. A third handout is entitled, "Montana Punitive Damage Awards." **(EXHIBIT 6).**

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MONTANA SENATE
1995 LEGISLATURE
JUDICIARY COMMITTEE

ROLL CALL DATE 1-18-95

NAME	PRESENT	ABSENT	EXCUSED
BRUCE CRIPPEN, CHAIRMAN	✓		
LARRY BAER	✓		
SUE BARTLETT	✓		
AL BISHOP, VICE CHAIRMAN	✓		
STEVE DOHERTY	✓		
SHARON ESTRADA	✓		
LORENTS GROSFIELD	✓		
MIKE HALLIGAN	✓		
RIC HOLDEN	✓		
REINY JABS	✓		
LINDA NELSON	✓		

SEN:1995
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Mike McGrath
County Attorney

SENATE JUDICIARY COMMITTEE
EXHIBIT NO. #3
DATE 1-12-95
BILL NO. SB 113

Courthouse
228 Broadway
Helena, Montana 59601
Telephone 406/447-8221

LEWIS AND CLARK COUNTY

Office of the County Attorney

January 17, 1995

Bruce Crippen
Senate Judiciary Committee Chairman
Capitol Building
Helena, MT 59601

Re: Support of Senate Bill 113

Dear Chairman Crippen and Committee Members:

Please accept this letter in support of Senate Bill 113. I am a prosecutor for Lewis and Clark County and write this letter on behalf of our office as well as other prosecutors within the State.

There are two main reasons that I urge the passage of this bill. First, an increased penalty for a third or subsequent offense sends a clear message that repeat offenders will face significant penalties. Driving without insurance is irresponsible. An accident caused by such a driver increases costs for all of us, the government as well as private citizens.

Second, the passage of this bill allows prosecutors to tailor sentencing to specific situations. Currently, our office sees third, fourth, fifth, sixth, and seventh time offenders. The existing ten day penalty fails to differentiate between these repeat offenders. An increased penalty will allow prosecutors to take into account the driving and accident history of the offender, and to sentence accordingly. It is my experience that increased jail time is a powerful deterrent to repeat offenders.

I strongly encourage you to pass this bill, and thank you for your time.

Sincerely,

VICKI FRAZIER
Deputy County Attorney

EXECUTIVE ACTION ON SB 113

Discussion: **CHAIRMAN CRIPPEN** advised the committee of a new fiscal note from the Budget Office, as well as reminding everyone that the Highway Patrol estimated the costs somewhat higher.

Motion/Vote: **SENATOR GROSFIELD MOVED THAT SB 113 DO PASS.** The **MOTION CARRIED** unanimously on oral vote.

EXECUTIVE ACTION ON SB 123

Motion: **SENATOR HALLIGAN MOVED THAT SB 123 BE TABLED.**

Discussion: **SENATOR HALLIGAN** said that the House took the same action. He said he did not think it was good public policy. **CHAIRMAN CRIPPEN** reviewed the options of the bill's direction with the committee.

Vote: The **MOTION PASSED** on a 7 to 4 roll call vote.

EXECUTIVE ACTION ON SB 141

Motion: **SENATOR BISHOP MOVED TO TABLE SB 141.**

Discussion: The reason {tape is inaudible} for the table motion was that it would not be a good time to switch, **SENATOR BISHOP** said. **SENATOR GROSFIELD** said that he looked up the statutes on the question of "public statements" which the clerk brought up in the hearing, and determined it would not make any difference. He said the contents of the documents were open anyway. **SENATOR BARTLETT** said that she would prefer to dispose of this bill since it did not appear to be one the clerks of court strongly support.

Motion: **SENATOR BISHOP WITHDREW HIS MOTION TO TABLE SB 141.**

Motion: **SENATOR BARTLETT MOVED SB 141 DO NOT PASS.**

Discussion: **SENATOR DOHERTY** spoke against the motion. He understood their concerns, and agreed with the comment made by the court clerk that they know how attorneys act outside the glare of publicity and how they treat people. He thought it would be helpful to have someone with the network in the

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MONTANA SENATE
1995 LEGISLATURE
JUDICIARY COMMITTEE

ROLL CALL DATE 1-19-95

NAME	PRESENT	ABSENT	EXCUSED
BRUCE CRIPPEN, CHAIRMAN	✓		
LARRY BAER	✓		
SUE BARTLETT	✓		
AL BISHOP, VICE CHAIRMAN	✓		
STEVE DOHERTY	✓		
SHARON ESTRADA	✓		
LORENTS GROSFIELD	✓		
MIKE HALLIGAN	✓		
RIC HOLDEN	✓		
REINY JABS	✓		
LINDA NELSON	✓		

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SENATE STANDING COMMITTEE REPORT

January 19, 1995

MR. PRESIDENT:

We, your committee on Judiciary having had under consideration SB 113 (first reading copy -- white), respectfully report that SB 113 do pass.

Signed: _____
Senator Bruce Crippen, Chair

PV Amd. Coord.
Sec. of Senate

HEARING ON SB 113

Opening Statement by Sponsor:

SEN. VIVIAN BROOKE, SD 33, said SB 113 would increase the penalties for uninsured drivers on a third offense.

Proponents' Testimony:

Dean Roberts, Administrator, Motor Vehicle Division, Department of Justice, rose as a proponent and gave some history behind the bill. He said the bill intended to make the third offense equal with other misdemeanors with a six-month jail sentence.

Colonel Craig Reap, Montana Highway Patrol (MHP), said they supported the bill for a number of reasons. He said that in 1989 MHP wrote 5,914 insurance violations. In 1994, they wrote 5,800. This demonstrated the numbers of people who were in violation of the law. Increasing the penalty would allow it to become consistent with other misdemeanors, but would also give the justices an opportunity to provide additional sentencing to those who have no intention of purchasing insurance.

Vicki Frazier, Deputy County Attorney, Lewis and Clark County, said they and the County Attorneys' Association supported the bill because it would send a message that they are serious about individuals carrying insurance. With medical costs, society could not afford to have individuals driving who are not insured. Secondly, it would provide options to offices to sentence individuals.

Opponents' Testimony:

None

Questions From Committee Members and Responses:

REP. BILL CAREY asked about the deterrent effect of the six-month option.

Ms. Frazier said that it would have a deterrent effect in that in individual crimes, higher maximum penalties are a signal that it is being taken seriously. It would also provide a hold over the individual for six months. Sentencing to six months, with it partially suspended, would still allow the courts to hold the conditions over them to bring them into conformity. Currently there is only a 10-day hold over the individual to revoke them.

REP. CAREY asked what kinds of conditions the court generally imposes on people and how that would change things.

Ms. Frazier said she did not necessarily know that the conditions would change, but that they would have the longer hold. She believed that the threat of jail time is an effective deterrent.

Another condition is that they remain law abiding. If they break another law, it may lengthen the time they can hold them and would provide more sentencing options

REP. WILLIAM BOHARSKI said that under current law after the second conviction, they take the drivers license and registration in which case they could not operate the vehicle anyway.

Ms. Frazier said they take the registration. They are supposed to turn the plates in, but it doesn't keep them from driving other vehicles.

REP. BOHARSKI asked how that affects the fact that they may be covered under another party while driving a vehicle insured with another person. He pointed out that the bill says that the court shall order the surrender of their registration and license of the vehicle and it would seem that they are already under their jurisdiction.

Ms. Frazier said that was true, but they would only have them for 10 days. They cannot give them any longer jail terms than the 10 days and the intent of the bill is to extend that time for the deterrent effect. It doesn't matter how many times they are stopped, currently they only have 10 days to sentence them to jail.

REP. BOHARSKI said the fiscal note suggested that it would cost about $300,000 and asked how those bills are paid.

Col. Reap said the bills are paid out of budget line items. The cost is based on a contract with each county. If the increases were to occur, the money would have to come out of that same budget item.

REP. BOHARSKI asked if the funding would come from fines.

Col. Reap said that their funding comes from a state special gas tax.

REP. LOREN SOFT asked who the people are who make up those in violation of the insurance laws. He asked how many of the 5,800 were repeat offenders.

Col. Reap said most of the people, particularly the repeat offenders, are people with whom they have other problems such as lack of registrations or DUI convictions. The first-time offenders in many cases are regular citizens whose insurance may have lapsed. Some are well able to purchase insurance, but for one reason or another don't want the government to be telling them to have insurance.

REP. SOFT asked if the increased jail time would deter for repeat offenders and those who are offending in other areas.

Col. Reap said that the fact that the court would have control over them for the additional time would promote the buying of insurance.

REP. SOFT asked what the procedure is in detecting who is not carrying insurance.

Col. Reap described the procedures for writing citations and warnings. Each officer has discretion to determine the situation and to act with either a citation or a warning.

REP. SOFT ask why warnings would be written when the law demands a conviction on first offense.

Col. Reap repeated that officers are allowed discretion in all violations. The whole picture is taken into consideration especially when there may be other violations of a more serious nature. Most cases of warnings would involve those who simply don't have proof of insurance with them, but may be insured.

{Tape: 1; Side: B; Approx. Counter: 19,8}

REP. HURDLE cited her own experience of having been involved in an accident with someone for whom it was the seventh offense. She saw him driving around in the same car later and suggested that it was more an enforcement problem.

Col. Reap said he did not disagree at all and that license plate taking is not done all of the time. He said sometimes the offender puts different plates on the car from another vehicle and that it is a major problem for MHP.

REP. HURDLE asked what the point of this is if they can only cite when the violations occur.

Col. Reap said that the additional six months would give the court the ability to tell that individual that they are on a suspended sentence, but for the remainder of the sentence they would have to have insurance. It would exercise some control that does not now exist.

REP. HURDLE again said that it was not being enforced and that was the problem.

Col. Reap replied that the fact of their having written over 5,800 citations indicated that it is being enforced, but the lack of control for the courts beyond 10 days was the problem.

REP. HURDLE asked in how many cases people are required to show proof of insurance after having been arrested for having no insurance.

Col. Reap answered, "Quite often, in fact, we really can't do this legally, but after we cite someone we sometimes make the

person come in and show that they did get insurance." He said he knew courts do that too. They could buy the 30-day insurance and then let it expire and there is no one to check on them again to require that they do it unless they are stopped again.

REP. HURDLE asked if at any stage anyone would lose their drivers license.

Col. Reap said there is a measure in the legislative process where five points would be assessed on a person's driving record who fails to have insurance. He said that had been strengthened by requiring that all insurance violations have the five-point designation and eventually with enough points, they would lose their license. This would still not require them to get insurance where this bill would present that opportunity.

Closing by Sponsor:

SEN. BROOKE recommended that the committee seriously consider the bill.

HEARING ON SB 13

Opening Statement by Sponsor:

SEN. MIKE HALLIGAN, SD 34, said the purpose of SB 13 was to eliminate the problem of having to use law enforcement personnel to chase down minor offenses by requiring the suspension of a drivers license for failure to appear in response to a traffic violation. The second page of the bill, lines 9 through 15 provided for the warning at the time that a citation is issued. An additional notice would be followed by a letter. After that warning, there would be an official notice of suspension. There is a provision where insurance companies could not use the information for to change rates.

Proponents' Testimony:

Brenda Nordlund, Department of Justice, said they would not be adopting a new policy in using the drivers license as a tool to get an individual to comply with a citation to appear in court or to comply with a court order to pay a particular fine. That policy was adopted in 1987. The reason for this bill is that the policy which was put into law contains a mechanism that doesn't work well and this bill would fine tune it so that it will work. The current law has no provision for forcing compliance. This bill would provide that two warnings be given before the department would suspend a license because they failed to appear on a citation or because they failed to pay a fine after being convicted of an offense under title 61.

Colonel Craig Reap, Montana Highway Patrol, reported that they have 2,500 outstanding warrants at any given time. The majority

HOUSE OF REPRESENTATIVES

Judiciary

ROLL CALL DATE 3/1/95

NAME	PRESENT	ABSENT	EXCUSED
Rep. Bob Clark, Chairman	✓		
Rep. Shiell Anderson, Vice Chair, Majority	✓	3:05 ✓	
Rep. Diana Wyatt, Vice Chairman, Minority	✓		
Rep. Chris Ahner	✓		
Rep. Ellen Bergman	✓		
Rep. Bill Boharski	✓		
Rep. Bill Carey	✓		
Rep. Aubyn Curtiss	✓		
Rep. Duane Grimes	✓		
Rep. Joan Hurdle	✓		
Rep. Deb Kottel	✓		
Rep. Linda McCulloch	✓		
Rep. Daniel McGee	✓		
Rep. Brad Molnar		✓	
Rep. Debbie Shea	✓		
Rep. Liz Smith		✓	
Rep. Loren Soft	✓		
Rep. Bill Tash	✓		
Rep. Cliff Trexler	✓		

HOUSE OF REPRESENTATIVES
VISITORS REGISTER

JUDICIARY COMMITTEE DATE 3/1/95

BILL NO. SB 113 SPONSOR(S) Sen. Grosfield

PLEASE PRINT PLEASE PRINT PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	Support	Oppose
Dean Roberts	Dept of Justice - MVD	✓	
Craig Reap	MHP	✓	

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

HR:1993
wp:vissbcom.man
CS-14

REP. DEB KOTTEL supported the motion to remove the bill from the table because she thought they were confusing what happens when judges over sentence and what happens in an emergency situation in the middle of the night. She felt they needed to allow for this type of flexibility and hoped that it would not be misused to avoid dealing with the problem.

REP. CHRIS AHNER supported the motion to remove it from the table but asked that they postpone action until they had a chance to re-review the bill.

Vote: **The motion carried 10 - 5, REPS. WYATT, SHEA, MOLNAR, TREXLER and HURDLE voted no.**

EXECUTIVE ACTION ON SB 64

Motion: **REP. AHNER MOVED SB 64 BE CONCURRED IN.**

Discussion: **REP. ELLEN BERGMAN** asked for a review of the intent of the bill.

REP. HURDLE said it was to clear up the distinction between penalties for persons in possession of alcohol at ages 18 and 21. She said the Senate amended it so that they would treat adult juveniles differently than they would juveniles.

Motion: **REP. SHIELL ANDERSON MOVED TO AMEND SB 64. EXHIBIT 1**

Discussion: **John MacMaster** explained the need for the coordinating amendments for this bill with HB 429 and HB 551.

Vote: **The motion carried unanimously.**

Motion/Vote: **REP. MOLNAR MOVED SB 64 BE CONCURRED IN AS AMENDED. The motion carried unanimously.**

EXECUTIVE ACTION ON SB 113

Motion: **REP. AHNER MOVED SB 113 BE CONCURRED IN.**

Motion: **REP. WYATT MOVED TO AMEND SB 113 TO INCREASE THE FINE FOR THE FIRST OFFENSE ON LINE 16 TO NO LESS THAN $250 OR MORE THAN $500 AND LINE 18 CHANGE $350 TO $750 AND ON LINE 19 AND TO DOUBLE THE FINE TO $1,000.**

Discussion: **REP. WYATT** stated that the purpose of the amendment was to equalize the amount of punishment with the cost for the insurance.

REP. DEBBIE SHEA asked if they couldn't afford the insurance, how they would afford the fine.

REP. LIZ SMITH said she did not like the bill and thought there was a significant amount of people who are neglectful of buying insurance and there are many who feel they cannot afford it. She felt there was a way to be creative in helping people have access to insurance coverage for their cars without more regulations and damages. She felt this was oppressive and had the effect of discouraging obtaining insurance.

CHAIRMAN CLARK asked her to elaborate on her solution to the problem.

REP. SMITH said they could be given a tax credit or some incentive to buy insurance rather than addition of fines.

REP. DEB KOTTEL opposed the amendment because it would negatively affect people who simply could not afford insurance and explained the experience she had had with people in that category.

REP. WYATT felt the issues were being confused. She pointed out that the court may suspend a required fine upon determination that the offender was unable to pay the fine. She felt that making the fine equal to the rational conscious choice they were making by not having insurance would act as a deterrent. She contended that if they didn't have the money for the insurance, why would they have the money for the car and the gas.

REP. SHEA said she had a problem with it in that they did not consider the reality of those who are in need and that she would oppose the amendment.

Vote: **The motion carried 12 - 7 by roll call vote.**

Motion/Vote: **REP. WYATT MOVED SB 113 BE CONCURRED IN AS AMENDED. The motion carried 18 - 1, REP. SMITH voted no.**

EXECUTIVE ACTION ON SB 297

Motion: **REP. BILL CAREY MOVED SB 297 BE CONCURRED IN.**

Discussion: **CHAIRMAN CLARK** reminded the committee that this bill provided for five points on a driving record for failure to carry or display the insurance card.

REP. HURDLE spoke in favor of the bill because it addressed the irresponsibility of people who failed to carry automobile insurance.

REP. KOTTEL said she understood that the points would not go on the driving record if the person could show the court proof of insurance.

HOUSE OF REPRESENTATIVES

Judiciary

ROLL CALL DATE 3/15/95

NAME	PRESENT	ABSENT	EXCUSED
Rep. Bob Clark, Chairman	✓		
Rep. Shiell Anderson, Vice Chair, Majority	✓		
Rep. Diana Wyatt, Vice Chairman, Minority	✓		
Rep. Chris Ahner	✓		
Rep. Ellen Bergman	✓		
Rep. Bill Boharski			✓
Rep. Bill Carey	✓		
Rep. Aubyn Curtiss	✓		
Rep. Duane Grimes			✓
Rep. Joan Hurdle	✓		
Rep. Deb Kottel	✓		
Rep. Linda McCulloch	✓		
Rep. Daniel McGee	✓		
Rep. Brad Molnar	✓		
Rep. Debbie Shea	✓		
Rep. Liz Smith	✓ 8:30	✓	
Rep. Loren Soft	✓*		✓ * returned late in meeting
Rep. Bill Tash	✓		
Rep. Cliff Trexler	✓		

HOUSE STANDING COMMITTEE REPORT

March 15, 1995

Mr. Speaker: We, the committee on **Judiciary** report that **Senate Bill 113** (third reading copy -- blue) **be concurred in as amended.**

Signed: Bob Clark
Bob Clark, Chair

Carried by: Rep. Carey

And, that such amendments read:

1. Title, line 6.
Following: "INSURANCE;"
Insert: "INCREASING FINES;"

2. Page 1, lines 16 and 17.
Strike: "not" on line 16 through "$250 or more than" on line 17

3. Page 1, line 18.
Strike: "$350"
Insert: "$750"

4. Page 1, line 19.
Strike: "$500"
Insert: "$1,000"

-END-

Committee Vote:
Yes 18, No 1.

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HOUSE OF REPRESENTATIVES

ROLL CALL VOTE

Judiciary Committee

DATE 3/15/95 BILL NO. SB113 NUMBER _____

MOTION: Wyatt Amendment to increase fines

NAME	AYE	NO
Rep. Bob Clark, Chairman	✓	
Rep. Shiell Anderson, Vice Chairman, Majority	✓	
Rep. Diana Wyatt, Vice Chairman, Minority	✓	
Rep. Chris Ahner	✓	
Rep. Ellen Bergman	✓	
Rep. Bill Boharski	✓	
Rep. Bill Carey	✓	
Rep. Aubyn Curtiss		✓
Rep. Duane Grimes	✓	
Rep. Joan Hurdle		✓
Rep. Deb Kottel	✓	
Rep. Linda McCulloch	✓	
Rep. Daniel McGee	✓	
Rep. Brad Molnar		✓
Rep. Debbie Shea		✓
Rep. Liz Smith		✓
Rep. Loren Soft	✓	
Rep. Bill Tash		✓
Rep. Cliff Trexler		✓

MINUTES

MONTANA SENATE
54th LEGISLATURE - REGULAR SESSION

CONFERENCE COMMITTEE ON SENATE BILL 113

Call to Order: By CHAIRMAN TOM KEATING on April 11, 1995 at 4:45 p.m.

ROLL CALL

Members Present:
Sen. Thomas F. Keating, Chairman (R)
Rep. Duane Grimes, Co Chairman (R)
Sen. Ken Miller (R)
Sen. Vivian M. Brooke (D)
Rep. Bill Carey (D)
Rep. Ellen Bergman (R)

Members Excused: None

Members Absent: None

Staff Present: Phoebe Kenny, Secretary

Discussion: **CHAIRMAN THOMAS KEATING, SD 5, Billings,** stated he believed the sponsor of the bill merely wanted to increase the days in jail after the third offense of an uninsured motorist having an accident. He stated the House increased the fines in the statutes, from $250 to $500, $350 to $750 and $500 to $1000. He thought the consensus was that the sponsor did not want to increase the fines. He didn't think it was good to increase the fines because if the offenders had the money to pay the fine they would probably buy the insurance. The fines don't have an impact on anybody from a financial standpoint. He would rather have them spend time in jail and put a damper on people driving without insurance.

REPRESENTATIVE DUANE GRIMES, HD 39, Clancy, said he didn't have a problem with lowering the fines but he was concerned about going with $250, then $350, then proposing six months in jail.

SENATOR VIVIAN BROOKE, SD 33, Missoula, said the rationale which was brought to her, in order to introduce the bill, was from the County Attorney's Office and the District Judges. What they found was repeat offenders were continually before them. Many times the judges want some kind of creative sentencing, whether it's actually in jail or whether it's community service. Then the court had that supervision over them and they could make them pay the fine and could make them get insurance. They could

monitor many more of their activities over that six month period if the option was jail time. It gave them a lot more clout to get them to quit driving without insurance. The court had the authority over them.

CHAIRMAN KEATING said if the court suspended the sentence, then they were on probation for six months, but if they did the time it had a greater impact on them.

REPRESENTATIVE ELLEN BERGMAN, HD 4, Miles City, said this was quite a jump, 10 days to six months but that wasn't necessarily jail time. It could be probationary time.

SENATOR BROOKE said the way it was explained to her was that six months was the standard sentence for a third offense.

Motion: **SENATOR KEN MILLER, SD 11, Laurel,** made the **MOTION TO STRIKE THE HOUSE AMENDMENTS** and the bill be put back to its original form.

CHAIRMAN KEATING stated that the motion would be that the House receded from their amendments.

Vote: **THE MOTION TO RECEDE THE HOUSE AMENDMENTS CARRIED UNANIMOUSLY.**

Conference Committee
on SB 113
Report No.1, April 12, 1995

Mr. President and Mr. Speaker:

We, your Conference Committee on SB 113, met and considered:

House Judiciary Committee Amendments to third reading copy, dated March 15, 1995.

We recommend that amendments considered above be rejected.

And that this Conference Committee report be adopted.

For the Senate:

Keating
Chair

Miller

Brooke

Amd. Coord.

Sec. of Senate

For the House:

Grimes
Chair

Bergman

Carey

ADOPT

REJECT

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HOUSE STANDING COMMITTEE REPORT

March 15, 1995

Mr. Speaker: We, the committee on **Judiciary** report that **Senate Bill 113** (third reading copy -- blue) **be concurred in as amended.**

Signed: Bob Clark
Bob Clark, Chair

Carried by: Rep. Carey

And, that such amendments read:

1. Title, line 6.
Following: "INSURANCE;"
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Strike: "$350"
Insert: "$750"

4. Page 1, line 19.
Strike: "$500"
Insert: "$1,000"

-END-

SB 113

Committee Vote:
Yes 18, No 1.

HOUSE

SENATE BILL NO. 113

INTRODUCED BY BROOKE, BENEDICT, HALLIGAN, SHEA, CLARK

A BILL FOR AN ACT ENTITLED: "AN ACT INCREASING FROM 10 DAYS TO 6 MONTHS THE MAXIMUM JAIL SENTENCE THAT MAY BE IMPOSED UPON THE THIRD OR SUBSEQUENT CONVICTION OF DRIVING WITHOUT LIABILITY INSURANCE; INCREASING FINES; AND AMENDING SECTION 61-6-304, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 61-6-304, MCA, is amended to read:

"**61-6-304. Penalties.** (1) It is unlawful for any person to operate a motor vehicle upon ways of this state open to the public without a valid policy of liability insurance in effect in an amount not less than that provided in 61-6-301 or unless the person has been issued a certificate of self-insurance, pursuant to 61-6-143, or has previously posted an indemnity bond with the department, as provided by 61-6-301, or is operating a vehicle exempt under 61-6-303.

(2) Conviction of a first offense under 61-6-301 through 61-6-304 is punishable by a fine of ~~not less than $250 or more than~~ $500 or by imprisonment in the county jail for not more than 10 days, or both. A second conviction is punishable by a fine of ~~$350~~ $750 or by imprisonment in the county jail for not more than 10 days, or both. A third or subsequent conviction is punishable by a fine of ~~$500~~ $1,000 or by imprisonment in the county jail for not more than ~~10 days~~ 6 months, or both.

(3) Upon a second or subsequent conviction, the sentencing court shall order the surrender of the vehicle registration receipt and license plates for the vehicle operated at the time of the offense if that vehicle was operated by the registered owner or a member of the registered owner's immediate family or by a person whose operation of that vehicle was authorized by the registered owner. The court shall send the receipt and plates, along with a copy of the complaint and dispositional order, to the department, which shall immediately suspend the receipt and plates for a period of 90 days from the date of a second conviction or 180 days from the date of a third or subsequent conviction. The receipt and plates may not be reinstated until the expiration of that period, but if the vehicle is transferred to a new owner, the new owner is entitled to register the vehicle.

(4) The court may suspend a required fine only upon a determination that the offender is or will

be unable to pay the fine.

(5) A court may not defer imposition of penalties provided by this section."

-END-